

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

Derrick D. Hentschel

v.

Civil No. 16-cv-426-JL

John Doe et al.<sup>1</sup>

**REPORT AND RECOMMENDATION**

In the complaint (Doc. No. 1) filed in this matter, plaintiff Derrick D. Hentschel requested that the court issue an injunction directing the defendants to place him in a safe environment while he is in the custody of the New Hampshire Department of Corrections ("DOC"). In response to the court's April 4, 2017 Order (Doc. No. 10), defendants filed a response/objection (Doc. No. 11) to Hentschel's preliminary injunction request.

**Background**

In his complaint, Hentschel asserted claims alleging that he had been assaulted by members of a particular prison gang, the Brotherhood of White Warriors ("BOWW"). Hentschel also stated that he had had prior difficulties with BOWW members, and

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<sup>1</sup>The defendants in this case are: two John Doe inmates; a John Doe New Hampshire Department of Corrections ("DOC") Investigations officer; Lt. Newton, whose first name is unknown; and DOC Classifications Administrator Kimberly Lacasse. Other defendants named by Hentschel in his initial complaint (Doc. No. 1) have been dropped from this action.

as a result, certain housing placements within the DOC would present a risk to his safety to the extent BOWW members would have an opportunity to harm him on those units. At the time he filed his complaint in this matter, Hentschel was housed at the Northern New Hampshire Correctional Facility ("NCF"), and asserted that he felt that his life was in jeopardy there, due to the presence of inmates affiliated with BOWW.

In response to Hentschel's request for injunctive relief, defendants acknowledge that there are units within the DOC that would present a safety risk to Hentschel if he were to be housed in those units. Defendants also acknowledge that, on more than one occasion, Hentschel has been assaulted by other inmates, even after expressing concerns about his safety. In an affidavit attached to the defendants' response, defendant Kimberly Lacasse, the Administrator of the DOC Classifications Department, has averred that she has transferred Hentschel a number of times, in an effort to find him suitable and safe housing. See generally Aff. Kimberly Lacasse ("Lacasse Aff.") (Doc. No. 11-1). In her affidavit, Lacasse also states that Hentschel, since filing his initial complaint, has been moved out of NCF and back to the New Hampshire State Prison ("NHSP") in Concord and had been housed in the NHSP's Secure Housing Unit

("SHU"). Id. at 2-3. Hentschel, in another filing in this case, has indicated that, as of July 15, 2017, he was housed in SHU. Hentschel has not expressed concern to Lacasse or to this court about his safety at SHU.<sup>2</sup>

### **Discussion**

It appears that Hentschel is no longer housed at NCF. Hentschel is housed at SHU, and he has not claimed that he faces a significant risk to his safety in SHU. Accordingly, Hentschel's request for preliminary injunctive relief, as articulated in his complaint, appears to be moot. The district judge should deny the request for preliminary injunctive relief on that basis. The denial should be without prejudice to Hentschel's ability to file a new motion seeking a preliminary injunction if circumstances warrant in the future.

Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). The fourteen-day period may be extended

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<sup>2</sup>Lacasse also stated that it was the intention of the DOC administration to move Hentschel to Medium Custody North ("MCN") at the NHSP, and that Hentschel has agreed to live in MCN. Lacasse Aff. at 3. However, later filings in this case indicate that Hentschel remains in SHU.

upon motion. Failure to file specific written objections to the Report and Recommendation within the specified time waives the right to appeal the district court's order. See Santos-Santos v. Torres-Centeno, 842 F.3d 163, 168 (1st Cir. 2016); Fed. R. Civ. P. 72(b)(2).

  
Andrea K. Johnstone  
United States Magistrate Judge

August 17, 2017

cc: Derrick D. Hentschel, pro se  
Francis Charles Fredericks, Esq.